

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT CARROLL

Plaintiff,

Docket No. 1:18-CV-667 (TJM/CFH)

-against-

**DECLARATION OF
LINDA STRUMPF**

US. EQUITIES CORP., LINDA STRUMPF,
HAL SIEGEL, both personally and as owner
of U.S. Equities, DAVID WARSHALL,
and WING LAM

Defendants

LINDA STRUMPF, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, based upon my personal knowledge:

1. I am a Pro-Se Defendant and am the attorney for Defendants U.S. Equities Corp. and Hal Siegel (collectively "Defendants") in this lawsuit.

2. I submit this Declaration in support of Defendants' motion pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

3. As a result of Plaintiff Robert Carroll's failure to pay a debt, which he has never denied owing, Defendant U.S. Equities Corp. ("Equities"), through its attorney, the undersigned, Linda Strumpf, Esq. obtained a judgment against Plaintiff in Kingston City Court, Ulster County, on February 2, 2009 (Compl. Exh. 1, p. 10).

4. Prior to the commencement of this action, Plaintiff moved by order to show cause in the state court to vacate the judgment (Compl., Exh. 2, pp. 3-7); however, his motion was denied by the Court on its own motion (Compl. Exh. 2, p. 2). The Court never signed Plaintiff's Order to Show Cause and Defendants were never served with it (Compl. Exh 2, pp. 3-4).

5. Thus, the judgment in the state court action was valid at all relevant times, and Defendants' conduct throughout the state action was always proper. In order to "effectuate a postjudgment judicial remedy" (15 U.S.C. § 1692c(b)) the undersigned served a restraining notice and information

subpoena upon Plaintiff's bank, pursuant to CPLR §5222 (attached hereto as Exhibit A), and subsequently a bank execution pursuant to CPLR §5232.

6. A copy of the cover letter to the Court dated January 14, 2009 with the proposed default judgment is attached as Exhibit B. The undersigned, on behalf of U.S. Equities Corp. submitted the proposed judgment with accompanying affidavit and affirmation in the same mailing to the Kingston City Court.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 16, 2018



Linda Strumpf, Esq.

EXHIBIT A

City Court of the City of Kingston
County of Ulster

-----X
U.S. Equities Corp.

Plaintiff

Index No. 29213/08

**INFORMATION SUBPOENA
with Restraining Notice**

- against -

Robert Bruce Carroll
(Social Security [REDACTED])

Re: Robert Bruce Carroll [REDACTED]
Judgment Debtor

Defendants
-----X

THE PEOPLE OF THE STATE OF NEW YORK

TO: Navy Federal Credit Union Attn: Legal Department 300 Steamboat Rd. Kings Point NY 11024

GREETING:

WHEREAS, in an action in the City Court of the City of Kingston, County of Ulster between U.S. Equities Corp., as plaintiff and, Robert Bruce Carroll as defendant who are all the parties named in said action, a judgment was entered on 2/2/2009 in favor of U.S. Equities Corp., judgment creditor and against Robert Bruce Carroll judgment debtor(s) in the amount of \$28681.97 of which \$50181.65 together with interest from May 31 2017 remains due and unpaid; and

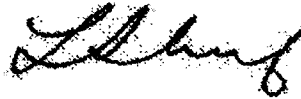
WHEREAS, the witness has an office for the regular transaction of business in person in this County

NOW, THEREFORE WE COMMAND YOU, that you answer in writing under oath, separately and fully, each question in the questionnaire accompanying this subpoena, each answer referring to the questions to which it responds; and that you return the answers together with the original of the questions within 7 days after your receipt of the questions and this subpoena.

TAKE NOTICE that false swearing or failure to comply with this subpoena is punishable as a contempt of court.

THE INFORMATION SUBPOENA REQUIRES THAT YOU RESPOND TO THE QUESTIONS ASKED, INCLUDING WHETHER DEFENDANT HAS DIRECT DEPOSIT

I HEREBY CERTIFY THAT THIS INFORMATION SUBPOENA COMPLIES WITH RULE 5224 OF THE CIVIL PRACTICE LAW AND RULES AND SECTION 601 OF THE GENERAL BUSINESS LAW THAT I HAVE A REASONABLE BELIEF THAT THE PARTY RECEIVING THIS SUBPOENA HAS IN THEIR POSSESSION INFORMATION ABOUT THE DEBTOR THAT WILL ASSIST THE CREDITOR IN COLLECTING THE JUDGMENT.



LINDA STRUMPF, ESQ.

RESTRAINING NOTICE

WHEREAS, it appears that you owe a debt to the judgment debtor(s) or are in possession or in custody of property in which the judgment debtor(s) has an interest:

Any and all checking accounts, including but not limited to savings accounts, certificates of deposit, safe deposit boxes, and any and all other assets of the judgment debtor(s), Robert Bruce Carroll Social Security [REDACTED] and Social Security # [REDACTED]

TAKE NOTICE that pursuant to CPLR §5222(b), which is set forth in full herein, you are hereby forbidden to make, or suffer any sale, assignment or transfer of, or any interference with, any property in which you have an interest or pay over or otherwise dispose of any such debt except as therein provided.

TAKE FURTHER NOTICE that this notice also covers all property in which the judgment debtor(s) has an interest hereafter coming into your possession or custody, and all debts hereafter coming due from you to the judgment debtor(s).

Section 5222(b). Effect of restraint; prohibition of transfer; duration. A judgment debtor or obligor served with a restraining notice is forbidden to make or suffer any sale, assignment, transfer or interference with any property in which he or she has an interest, except as set forth in subdivisions (h) and (i) of this section, and except upon direction of the sheriff or pursuant to an order of the court, until the judgment or order is satisfied or vacated. A restraining notice served upon a person other than the judgment debtor or obligor is effective only if, at the time of service, he or she owes a debt to the judgment debtor or obligor or he or she is in the possession or custody of property in which he or she knows or has reason to believe the judgment debtor or obligor has an interest, or if the judgment creditor or support collection unit has stated in the notice that a specified debt is owed by the person served to the judgment debtor or obligor or that the judgment debtor or obligor has an interest in specified property in the possession or custody of the person served. All property in which the judgment debtor or obligor is known or

63700

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believed to have an interest then in and thereafter coming into the possession or custody of such a person, including any specified in the notice, and all debts of such a person, including any specified in the notice, then due and thereafter coming due to the judgment debtor or obligor, shall be subject to the notice except as set forth in subdivisions (h) and (i) of this section. Such a person is forbidden to make or suffer any sale, assignment or transfer of, or any interference with, any such property, or pay over or otherwise dispose of any such debt, to any person other than the sheriff or the support collection unit, except as set forth in subdivisions (h) and (i) of this section, and except upon direction of the sheriff or pursuant to an order of the court, until the expiration of one year after the notice is served upon him or her, or until the judgment or order is satisfied or vacated, whichever event first occurs. A judgment creditor or support collection unit which has specified personal property or debt in a restraining notice shall be liable to the owner of the property or the person to whom the debt is owed, if other than the judgment debtor or obligor, for any damages sustained by reason of the restraint. If a garnishee served with a restraining notice withholds the payment of money belonging or owed to the judgment debtor or obligor in an amount equal to twice the amount due on the judgment or order, the restraining notice is not effective as to other property or money.

TAKE FURTHER NOTICE that disobedience of this Restraining Notice is punishable as contempt of court.

NOTICE TO JUDGMENT DEBTOR OR OBLIGOR

Money or property belonging to you may have been taken or held in order to satisfy a judgment or order which has been entered against you. Read this carefully.

YOU MAY BE ABLE TO GET YOUR MONEY BACK

State and federal laws prevent certain money or property from being taken to satisfy judgments or orders. Such money or property is said to be "exempt". The following is a partial list of money which may be exempt:


1. Supplemental security income, (SSI);
2. Social security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' compensation benefits;
8. Public or private pensions;
9. Veterans benefits;
10. Ninety percent of your wages or salary earned in the last sixty days;
11. Twenty-six hundred twenty-five dollars of any bank account containing statutorily exempt payments that were deposited electronically or by direct deposit within the last forty-five days, including, but not limited to, your social security, supplemental security income, veterans benefits, public assistance, workers' compensation, unemployment insurance, public or private pensions, railroad retirement benefits, black lung benefits, or child support payments;
12. Railroad retirement; and
13. Black lung benefits.

If you think that any of your money that has been taken or held is exempt, you must act promptly because the money may be applied to the judgment or order. If you claim that any of your money that has been taken or held is exempt, you may contact the person sending this notice.

Also, YOU MAY CONSULT AN ATTORNEY, INCLUDING ANY FREE LEGAL SERVICES ORGANIZATION IF YOU QUALIFY. You can also go to court without an attorney to get your money back. Bring this notice with you when you go. You are allowed to try to prove to a judge that your money is exempt from collection under New York civil practice law and rules, sections fifty-two hundred twenty-two-a, fifty-two hundred thirty-nine and fifty-two hundred forty. If you do not have a lawyer, the clerk of the court may give you forms to help you prove your account contains exempt money that the creditor cannot collect. The law (New York civil practice law and rules, article four and sections fifty-two hundred thirty-nine and fifty-two hundred forty) provides a procedure for determination of a claim to an exemption.

Please note that we are required under Federal Law to advise you that we are debt collectors; this is an attempt to collect this debt and any information obtained will be used for that purpose.

Dated: May 31 2017



LINDA STRUMPF, ESQ.

Attorney for Judgment Creditor:
Office and Post Office Address:
63700

LINDA STRUMPF
69 Fox Run, South Salem, NY 10590 Ph: 212-566-6800; Fax: 212-566-6808

LC

EXEMPTION NOTICE
As required by New York Law
YOUR BANK ACCOUNT IS RESTRAINED OR "FROZEN"

The attached Restraining Notice or notice of Levy by Execution has been issued against your bank account. You are receiving this notice because a creditor has obtained a money judgment against you, and one or more of your bank accounts has been restrained to pay the judgment. A money judgment is a court's decision that you owe money to a creditor. You should be aware that FUTURE DEPOSITS into your account(s) might also be restrained if you do not respond to this notice.

You may be able to "vacate" (remove) the judgment. If the judgment is vacated, your bank account will be released. Consult an attorney (including free legal services) or visit the court clerk for more information about how to do this.

Under state and federal law, certain types of funds cannot be taken from your bank account to pay a judgment. Such money is said to be "exempt."

DOES YOUR BANK ACCOUNT CONTAIN ANY OF THE FOLLOWING TYPES OF FUNDS?

1. Social security;
2. Social security disability (SSD);
3. Supplemental security income (SSI);
4. Public assistance (welfare);
5. Income earned while receiving SSI or public assistance;
6. Veterans benefits;
7. Unemployment insurance;
8. Payments from pensions and retirement accounts;
9. Disability benefits;
10. Income earned in the last 60 days (90% of which is exempt);
11. Workers' compensation benefits;
12. Child support;
13. Spousal support or maintenance (alimony);
14. Railroad retirement; and/or
15. Black lung benefits.

If YES, you can claim that your money is exempt and cannot be taken. To make the claim, you must

- (a) complete the EXEMPTION CLAIM FORM attached;
- (b) deliver or mail the form to the bank with the restrained or "frozen" account; and
- (c) deliver or mail the form to the creditor or its attorney at the address listed on the form.

You must send the forms within 20 DAYS of the postmarked date on the envelope holding this notice. You may be able to get your account released faster if you send to the creditor or its attorney written proof that your money is exempt. Proof can include an award letter from the government, an annual statement from your pension, pay stubs, copies of checks, bank records showing the last two months of account activity, or other papers showing that the money in your bank account is exempt. If you send the creditor's attorney proof that the money in your account is exempt, the attorney must release that money within seven days. You do not need an attorney to make an exemption claim using the form."

City Court of the City of Kingston
County of Ulster

-----X Index No. 29213/08

U.S. Equities Corp.

Plaintiff

- against -

Robert Bruce Carroll

EXEMPTION CLAIM FORM

Defendant(s)

-----X
NAME AND ADDRESS OF JUDGMENT
CREDITOR OR ATTORNEY:
LINDA STRUMPF, ESQ.
69 Fox Run
South Salem, NY 10590
ADDRESS A

NAME AND ADDRESS OF FINANCIAL INSTITUTION:
Navy Federal Credit Union
300 Steamboat Rd.

Kings Point NY 11024
ADDRESS B

Directions: To claim that some or all of the funds in your account are exempt, complete both copies of this form, and make one copy for yourself. Mail or deliver one form to ADDRESS A and one form to ADDRESS B within twenty days of the date on the envelope holding this notice. **If you have any documents, such as an award letter, an annual statement from your pension, paystubs, copies of checks or bank records showing the last two months of account activity, include copies of the documents with this form. Your account may be released more quickly

I state that my account contains the following type(s) of funds (check all that apply):

- _____ Social security
- _____ Social security disability (SSD)
- _____ Supplemental security income (SSI)
- _____ Public assistance
- _____ Wages while receiving SSI or public assistance
- _____ Veterans benefits
- _____ Unemployment insurance
- _____ Payments from pensions and retirement accounts
- _____ Income earned in the last 60 days (90% of which is exempt)
- _____ Child support
- _____ Spousal support or maintenance (alimony)
- _____ Workers' compensation
- _____ Railroad retirement or black lung benefits
- _____ Other (describe exemption): _____

I request that any correspondence to me regarding my claim be sent to the following address:

FILL IN YOUR COMPLETE ADDRESS

I certify under penalty of perjury that the statement above is true to the best of my knowledge and belief.

Date:

SIGNATURE OF JUDGMENT DEBTOR

City Court of the City of Kingston
County of Ulster

-----X

U.S. Equities Corp.

Plaintiff

Index No. 29213/08

**QUESTIONS AND ANSWERS IN
CONNECTION WITH
INFORMATION SUBPOENA**
Our File No. 63700

- against -

Robert Bruce Carroll
(Social Security [REDACTED])

Re: Robert Bruce Carroll (Social Security [REDACTED])
Judgment debtor

Defendant(s)

-----X

Re: Robert Bruce Carroll
PO BOX 201 , Connelly, NY 12417

STATE OF NEW YORK, COUNTY OF ss:

_____ being duly sworn, deposes and says: that deponent is the¹ of recipient of an information subpoena (served upon: Navy Federal Credit Union Attn: Legal Department 300 Steamboat Rd. Kings Point NY 11024) herein and of the original and a copy of questions accompanying said subpoena.

The answers set forth below are made from information obtained from the records of the recipient.

Q. No. 1 Do you have a record of any account in which the judgment debtor may have an interest, whether under the name of the debtor, under a trade or corporate name, or in association with others, as of the date of the subpoena or within 1 year prior thereto?

A. No. 1

Q. No. 2 As to each such account, what is the exact title of the account, the date opened, amounts presently on deposit; if closed, the amount on deposit when closed and the date closed?

A. No. 2

Title	Date Opened	Amount on Deposit	Amount Held	Date Closed
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Q. No. 3 If this is a lease security account, please provide the name of the landlord/property management company, as well as their last known address and current telephone number.

A. No. 3

¹Excerpt from CPLR section 5224 (a) 3. "...Answers shall be made in writing under oath by the person upon whom served if an individual, or by an officer, director, agent, or employee having information, if a corporation, partnership or sole proprietorship. Each question shall be answered separately and fully and each answer shall refer to the questions to which it responds. Answers shall be returned together with the original of the questions within seven days after receipt."

Q. No. 4. Do you presently employ the judgment debtor?

A. No. 4.

Q. No. 5. State the name, address and telephone number of judgment debtor(s) present or last known employer.

A. No. 5

Q. No. 6 Is the judgment debtor receiving a salary in the form of direct deposit to your institution? If yes, please state title and bank of depositor.

A. No. 6.

Q. No. 7 Do you have a record of any safe deposit box in which the judgment debtor may have an interest, whether under the name of the debtor, under a trade or corporate name, or in association with others, as of the date of the subpoena or within 1 year prior thereto?

A. No. 7

Q. No. 8 As to each such box what is the exact designation of the lessees thereof, the date hired, the date discontinued, the names of those having access?

A. No. 8

Lessees Date	Hired Date	Those Having Access
	Discontinued	

Q. No. 9. Do you hold collateral in which the debtor has or may have an interest?

A. No. 9

Q. No. 10 What is the description and value of each item of collateral?

A. No. 10	Description	Value
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Q. No. 11 What interest does the debtor appear to have in each item of collateral?

A. No. 11

Q. No. 12 Is the judgment debtor indebted to you?

A. No. 12

Q. No 13 As to each indebtedness, what is the amount of the original indebtedness, the date incurred, amount repaid and date of such repayment?

A. No. 13

Amount	Date Incurred	Amount Repaid	Date Repaid
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Q. No. 14 Do you hold any lien, mortgage or otherwise, against property of the debtor?

A. No. 14

Q. No. 15 What is the nature of each such lien, the full description of the property affected by the lien, the location and identity of the office of the filing or recording and full indexing information?

A. No. 15.

Lien Property	Where Recorded or Filed	Book & Page No.
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Q. No. 16 Are any of the assets of the debtor, in your possession or care, subject to liens, attachments or other encumbrances?

A. No. 16

Q. No. 17 What are the full details in regard to each asset?

A. No. 17

Q. No. 18 Do you have any other transactions with the debtor, directly or indirectly, as a result of which the debtor may now have, or may in the future become entitled to, money or credit?

A. No. 18

Q. No. 19 Has the debtor given you a statement of financial condition?

A. No. 19

Q. No. 20 What assets are disclosed therein (or in the alternative supply a copy thereof).

A. No. 20

Q. No. 21 Did the debtor make payments to you? If yes, do you have copies of all canceled checks from this debtor?

A. No. 21

Q. No. 22 If the answer to Question # 20 is yes, then please attach a copy of the most recent canceled check from this debtor.

A. No. 22

Q. No. 23 Did the debtor make deposits by checks. If yes, do you have copies of checks deposited by this debtor?

A. No. 23

Q. No. 24. If the answer to Question #22 is yes, then please attach a copy of all the checks deposited by the debtor in the past two months, or if no checks were deposited in the past two months, then please attach copies of any checks that were deposited by the debtor in the last year.

A. No. 24

Q. No. 25 Has the debtor filled out an application when the account was opened. If so, please attach a copy of the debtor's application

A. No. 25

Q. No. 26 Please attach a copy of the debtor's signature card which you have on record.

A. No. 26

Q. No. 27 What is debtor's social security number (or tax identification number)?

A. No. 27

Q. No. 28 What is the debtor's current home address and telephone number?

A. No. 28

Q. No. 29 Are there any income executions, or liens against earnings presently in effect or awaiting placement?

A. No. 29

Q. No. 30 If judgment debtor(s) a member of a union? If yes, give name and address of union, union member, and status of membership.

A. No. 30

Sworn to before me this
day of

Attorney for Judgment Creditor: **LINDA STRUMPF, ESQ.**
Office and Post Office Address: **69 Fox Run, South Salem, NY 10590**
Tel. **212-566-6800 ext. 120**

EXHIBIT B

LINDA STRUMPF
ATTORNEY AT LAW

Admitted to practice:
New York
New Jersey
Connecticut

NEW YORK OFFICE
2 WEST ROAD
SOUTH SALEM, NY 10590
TEL: (212) 566-6800
FAX: (212) 566-6808

NEW JERSEY OFFICE
2404 PARK PLACE
SPRINGFIELD, NJ 07081
TEL: (973) 624-2121
FAX: (973) 624-7550

CONNECTICUT OFFICE
244 COLONIAL ROAD
NEW CANAAN, CT 06840
TEL: (203) 966-8555
FAX: (203) 966-8886

January 14 2009

Judgment Clerk
City Court of the City of Kingston
Ulster County
1 Garraghan Dr.
Kingston, NY 12401

Re: U. S. Equities Corp. v. Robert Bruce Carroll
Index No. 29213/08

Dear Sir/Madame:

Enclosed please find original and one copy of proposed default judgment in the above-captioned matter. After the judgment is signed, would you please return to us a conformed copy in the enclosed self-addressed stamped envelope.

Thank you for your attention to this matter.

Please note our new New York office address listed above.

Very truly yours,



LINDA STRUMPF

Encl.

Our File No. 63700

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT CARROLL

Plaintiff,

Docket No. 1:18-CV-667 (TJM/CFH)

-against-

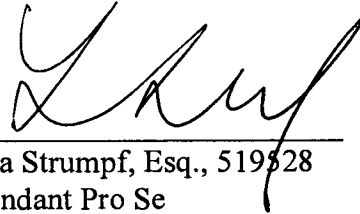
CERTIFICATE OF SERVICE

US. EQUITIES CORP., LINDA STRUMPF,
HAL SIEGEL, both personally and as owner
of U.S. Equities, DAVID WARSHALL,
and WING LAM

Defendants

I hereby certify that on November 16, 2018 I served the attached Declaration of Linda Strumpf to the Plaintiff Pro Se by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service, addressed as follows:

Robert Carroll
P.O. 201
Connelly, NY 12417



Linda Strumpf, Esq., 519528
Defendant Pro Se
69 Fox Run
South Salem, NY 10590
Tel: 212-566-6800
linda.strumpflaw@live.com